

STATE OF MISSOURI

Minority Business Enterprise (MBE) and **Women Business Enterprise (WBE)**

CONTRACTING AND PROCUREMENT

BEST PRACTICES AND PROCEDURES

STATE AGENCY MANUAL

6/01/04

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Attachments

I. Introduction.

The State of Missouri's Contract Compliance Council presents this Minority and Women Owned Business Enterprise (MBE-WBE) Best Practices Manual to state agencies for their use in contracting with MBE-WBE organizations. This Best Practices Manual will provide state personnel with information that will enhance their abilities to maximize their contracting with MBE-WBE organizations.

II. Procurement Authority and Associated Procedures.

The state's procurement process is based upon the statutory authority of Chapter 34 of the Revised Statutes of Missouri (RSMo). Chapter 34 requires that all purchases in excess of \$3,000 dollars shall be based on competitive bids. Except as otherwise provided in this chapter contracts shall be awarded to the lowest and best bidder. The State of Missouri gives a bidding preference consisting of a five (5) point bonus on bids for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind and in sheltered workshops holding a certificate of approval from the Department of Elementary and Secondary Education pursuant to section 178.920, RSMo. Missouri gives a preference to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri.

Expenditures less than \$3,000:

Authority: State law (Chapter 34 RSMo) allows expenditures that are less than \$3,000 to be made without competitive bidding or written contracts.

Procedure: State agency procurement personnel may use their discretion in selecting qualified suppliers and/or service providers. State agency procurement personnel may select certified and qualified MBEs and/or WBEs for service and supply needs that are less than \$3,000. MBEs and WBEs may gain business experience with state agencies through this method of procurement.

Expenditures between \$3,000 and \$25,000:

Authority: Pursuant to Chapter 34.100 RSMo, the Commissioner of Administration has delegated local procurement authority to state agencies which are governed by Chapter 34. State agencies, through competitive bidding in accordance with Chapter 34.040 RSMo may award:

- A single local purchase order with a total value of less than \$25,000.
- A local purchase contract with a total value of less than \$25,000 for an initial contract period, not to exceed twelve months. The state agency may include renewal options

which do not exceed twelve months per option in the contract. The total value of each option must be less than \$25,000 for the renewal period.

Local Purchase Authority shall not be used for the following:

- Supplies and/or services available on current state agency, statewide or blanket contracts; unless specifically allowed by the contract terms.
- Vehicles.
- Supplies and or services with a total value of \$25,000 or more within the same fiscal year.
- Supplies available through the Missouri Vocational Enterprises (MVE). Waivers may be obtained from MVE to purchase supplies from other sources.

Procedure: State procurement personnel must solicit at least three competitive bids from vendors who could reasonably be expected to provide the supplies and/or services. State agency procurement personnel may use their discretion in selecting their prospective bidders. Procurement personnel may select certified MBEs and/or WBEs to bid on service and supply needs that are between \$3,000 and \$25,000. MBEs and WBEs may obtain contract experience with state agencies through this method of procurement.

Expenditures over \$25,000:

Authority: Unless Special Delegated Authority (SDA) has been delegated by the Office of Administration (OA), Commissioner of Administration, procurement with values of \$25,000 or greater shall be performed by the State's Division of Purchasing and Materials Management (DPMM).

Office of Administration, Division of Purchasing and Materials Management (DPMM), MBE-WBE Participation Requirements:

In order for the DPMM to meet the requirements of the Governor's Executive Order 98-21, DPMM may require that offerors to competitively submit proposals and bids, which have an initial contract period value greater than \$100,000, secure participation by certified MBEs and WBEs in providing the products/services required in the proposal or bid. The DPMM will generally set the participation requirements at 10%-20% MBE and 5%-10% WBE, in accordance with Executive Order 98-21. The MBE-WBE participation requirements can be met by offerors certified by the state as MBE-WBE or through the use of subcontractors, suppliers, joint ventures or other arrangements that afford meaningful opportunities for MBE-WBE participation.

The DPMM will identify and list meaningful subcontracting and other participation opportunities for MBE-WBEs in the proposal/bid document. The DPMM will make

information about MBE-WBE subcontracting and participation opportunities available on their Internet site. More information about MBE-WBE contracting opportunities are available at: www.oa.mo.gov/purch/index.html

III. MBE-WBE Certification.

Office of Administration, Office of Equal Opportunity, MBE-WBE Certification:

Executive Order 98-21 states that all state agencies shall continue to make every feasible effort to increase the percentage of goods and services procured from certified Minority and Women-Owned Businesses (MBE-WBE) to 10% and 5%, respectively. The Office of Administration, Office of Equal Opportunity (OEO), in concert with the DPMM shall promote and coordinate the participation of MBE and WBE organizations in state contracts. The OEO manages the certification of individuals and organizations as MBEs or WBEs. MBE-WBE certification is required to be considered an eligible MBE-WBE in meeting state participation goals. The basic requirements for certification are that the business is at least fifty-one percent (51%) owned and controlled by minorities or women. More specific information regarding MBE-WBE certification is available at the OEO's web site: www.oa.mo.gov/oao/

Rapid Response Certification Process:

In order to minimize duplication between certifying agencies in the state and avoid burdening business owners with unnecessary paperwork, the OEO has developed a Rapid Response Certification process. The Rapid Response Certification process reduces the documentation requirements and shortens the process by approximately ten to fourteen business days. Businesses that are currently certified with another certifying entity, that is recognized by the OEO, may qualify for this process. The certification application/affidavit, must be signed by the majority MBE-WBE business owner. The following documentation should accompany the application:

- Resumes for all owners and investors;
- Copies of last two years income tax returns. (If a firm has been in existence for less than one year, a current profit/loss statement must be provided).
- A listing of the individuals (to include name, title, gender and ethnicity) in the business who are responsible for financial decisions and management decisions. (This should include but may not be limited to those responsible for estimating, marketing/sales, hiring/firing of management, purchasing of major items/services, loan/bond negotiation, supervision of field operations, contract negotiations and those with insurance and payroll signature authority).

Firms seeking Missouri certification that are located outside the State of Missouri are not eligible for the Rapid Response process. Businesses located outside the State of Missouri are required to obtain certification in their home state first. After obtaining certification from their home state, the business may apply for certification with the State of Missouri via the standard certification process.

MBE-WBE Certification Bodies that the OEO Acknowledges:

The OEO recognizes certifications from the following Missouri agencies:

- Metro, St. Louis.
- The City of Kansas City, Human Relations Department.
- The Kansas City, Minority Supplier Development Council.
- The Small Business Administration, Kansas City-West District.
- The City of St. Louis, Lambert International Airport.
- The St. Louis Minority Business Council.
- The Small Business Administration, St. Louis East District.
- The State of Missouri Department of Transportation.
- National Women Business Owners Corporation, Florida (ONLY Missouri based firms).

The Office of Administration's, OEO may be reached at the following:

Office of Equal Opportunity
Office of Contract Compliance
301 W. High Street
PO Box 809
Jefferson City, MO 65102-0809
(573) 751-8130; (877) 259-2963
e-mail: William.Edmonson@oa.mo.gov (Office of Contract Compliance)

OEO's Listing of Certified MBE-WBE Organizations:

The OEO maintains updated lists of certified MBE-WBE organizations. The OEO publishes a web based MBE-WBE Directory which provides information about MBE-WBE organizations, including their commodity/service and geographic area. These lists are available on the OEO web site: www.oa.mo.gov/oao/

State Agency Roles in the Certification Process:

It is requested that departments doing business with MBEs and WBEs confirm that these organizations are currently certified with the OEO. In the event that such businesses have not obtained certification, departments are asked to refer them to the Office of Equal Opportunity's, Certification Unit. The OEO will provide these businesses with the appropriate certification applications as well as incentives to encourage prospective applicants to pursue certification.

IV. State Agency MBE-WBE Plans and Procedures.

Annual MBE-WBE Plans:

The Office of Administration, OEO is charged with the administration of the State's Minority and Women-Owned Business Enterprise Program. OEO's Office of Contract Compliance (OCC) chairs the state's Executive Contract Compliance Council (CCC). The OCC requires each state agency to develop and submit their MBE-WBE Plans on an annual basis. Guidelines established by the OCC require the following elements be included in state plans:

- A statement of commitment from the director or head of agency to achieve the state's annual contract goals and to maximize opportunities for certified businesses to contract for public works and provide goods, equipment and services.
- Identification of the person given the responsibility and authority to ensure implementation of the plan.
- A listing of specific measures the agency will take to increase participation of certified businesses.

In addition to these required elements, state agencies with one-hundred (100) or more employees shall include detailed procedures for the following:

- Communicating the policy and appropriate procedures to all staff.
- Training of staff involved in plan implementation.
- Annual forecasting of contracting, procurement and other expenditure activity by class of contract.
- Setting individual contract goals.
- Monitoring and ensuring compliance of contractors and vendors.
- Maintenance of records regarding contract awards, purchase orders and other expenditures as required in this chapter.
- Regular provision of data to the office on all expenditures as required.
- Resolving disputes and investigating complaints.
- Summary of previous years activities, initiatives and efforts toward achieving desired goals.

- Review and revision of contracting and procurement documents, policies and practices which hinder or create barriers to successful implementation of the plan.

A state agency MBE-WBE Plan is included in this manual.

Management Support:

Executive Order 98-21 establishes the Contract Compliance Council and requires that each state agency be represented on the Council. It is essential that each state agency's Executive Team support and communicate its MBE-WBE goals and objectives throughout its organization.

Designation of Responsibilities:

Accountability and the specific designation of duties and responsibilities are necessary for the effective implementation of a state agency's MBE-WBE Plan. The responsibility for the administration of the agency's plan should be documented in the appropriate personnel's annual performance plan.

Rewards, Incentives and Recognition Efforts:

An essential element to a state agency's effective MBE-WBE program is the use of rewards, incentives and recognition. It is recommended that each state agency develop and implement its own program for routinely recognizing and rewarding its employees who contribute to the agency's MBE-WBE procurement efforts. The type and nature of an agency's recognition and reward program is dependent upon its creativity and resources.

It is recommended that performance plans for personnel with MBE-WBE procurement responsibilities include measurable objectives that are directly associated with the agency's MBE-WBE Annual Procurement Plan. The employee's progress and accomplishments pertaining to these objectives should be recognized in their performance evaluation.

The Missouri Minority Business Advocacy Commission has established the Governor's "Torch of Excellence Awards". These annual awards recognize outstanding accomplishments in the area of diversity to serve as a model for business, industry and labor. This is a collective award recognizing public and private sectors as important factors in managing diversity in Missouri State Government.

V. Reporting and Monitoring.

Office of Administration, (OA) MBE–WBE Reporting:

OA, Office of Equal Opportunity issues quarterly MBE-WBE expenditure reports. This report provides information at the state agency level and separates agency contracting from that performed by the State's DPMM.

SAM II reporting capabilities are designed to compliment the data offered by the Office of Equal Opportunity's, MBE-WBE expenditure report. The current MBE-WBE Expenditure Report provides the following information for each state agency:

- DPMM contract and purchase order MBE expenditures, WBE expenditures, total expenditures, the MBE percentage of total expenditures and the WBE percentage of total expenditures.
- State Agency MBE expenditures, WBE expenditures, total expenditures, the MBE percentage of total expenditures and the WBE percentage of total expenditures.

Contractor reporting requirements:

The contractor shall prepare and submit to the DPMM a report detailing all payments to participating MBE-WBEs. The DPMM and the OEO will monitor the contractor's compliance in meeting the MBE-WBE participation levels committed to in the contractor's original proposal. If the contractor's payments to participating MBE-WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE-WBE participation commitment less actual payments made by the contractor to MBE-WBEs. If DPMM determines that the contractor is in compliance with the MBE-WBE participation commitment, the state will release the retained funds.

If a participating MBE-WBE does not obtain certification, fails to retain their certification or is unable to perform satisfactorily, the contractor must obtain other certified MBE-WBEs to fulfill the MBE-WBE participation requirements committed to in the contractor's original proposal. The contractor must obtain the written approval of the DPMM for any new MBE-WBE participants. If the contractor can not obtain an MBE-WBE replacement, the contractor must submit an Application for Waiver to the DPMM, documenting all efforts made to secure an MBE-WBE replacement. The DPMM has sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE-WBE and whether the contract will be amended to change the MBE-WBE participation commitment.

State Agency Reporting:

OA's expenditure reports are designed to provide state agencies with both detail and summary spending information. The detail expenditure reports are available and can be obtained from the SAM II Data Warehouse and MOBIUS Reports. State agencies have the ability to customize reports to fit their particular need from the data warehouse. The expenditure summary report is scheduled to be produced monthly. State agencies are expected to utilize these reports for making management decisions and as part of their monitoring process.

The use of in-house databases and reporting are useful tools. The use of in-house reports can provide a level of specificity and detail that state wide reports may not provide.

VI. Training and Education.

Ongoing training and education of both state personnel and MBE-WBEs are essential. Training and education should be done at various levels and locations so as to achieve the greatest degree of dissemination. The following are resources for the training and education of department personnel.

Office of Equal Opportunity (OEO):

The OEO's Office of Contract Compliance administers the state's MBE-WBE procurement program. The OEO is the primary resource to state personnel and vendors regarding MBE-WBE procurement.

The OEO conducts a Capitol Connection Conference in the Jefferson City area. The Capitol Connection is an opportunity for MBE-WBE vendors to meet procurement personnel from various state agencies. This is a great forum to meet MBE-WBE vendors and obtain additional names of MBE-WBE vendors.

The OEO, in conjunction with the DPMM, holds workshops each year to assist MBE-WBE vendors with: 1). Who to contact with questions about state procurement; 2). Understanding the competitive bid process; 3). Answering questions about state laws pertaining to procurement; and 4). Understanding the different types of services and supplies that are purchased by the various state agencies.

Office of Equal Opportunity, Contract Compliance Council:

The Governor's Executive Order 98-21 establishes an Executive Branch Contract Compliance Council (CCC). All state agencies shall participate in this council, which is established for the purpose of assisting agencies in implementing the policies and procedures recommended by the Oversight Review Committee, pursuant to the State of Missouri disparity study. The council is chaired by the state's Compliance Officer from the OEO.

The State Compliance Officer has overall responsibility for the administration, implementation and enforcement of the state's MBE-WBE participation policies.

Office of Equal Opportunity, Supplier Diversity Program:

The OEO's Supplier Diversity Program administers the following:

- Identify and notify MBEs–WBEs of bidding opportunities.
- Research bid information and provides bid history to MBEs–WBEs as needed.
- Work with state agencies and prime contractors to develop and include MBEs–WBEs as subcontractors or through joint ventures.
- Assist MBEs–WBEs with one-on-one counseling regarding state procurement opportunities, marketing strategies, business development, etc.

For more information on the Supplier Diversity Program, visit:
www.oa.mo.gov/o eo/sdp.html

The Office of Administration, OEO's Supplier Diversity Program may be reached at the following:

Office of Equal Opportunity
Supplier Diversity Program
301 W. High Street
PO Box 809
Jefferson City, MO 65102-0809
(573) 751-8130; (877) 259-2963
e-mail: Monica.Billinger@oa.mo.gov (Supplier Diversity Program)

State Agency sponsored events and/or training:

It is critical that each state agency develop and implement a MBE-WBE training program. State agency MBE-WBE training programs must have the commitment and expressed support of its executive leadership. Training should occur on at least an annual basis and should target both procurement and executive personnel. The OEO will provide assistance and support to the development and performance of state agency's MBE-WBE training programs.

VII. State Agency Contacts.

A list of the current members of the state's Contract Compliance Council can be found on the OEO Website, <http://www.oa.mo.gov/o eo/> . The individuals listed serve as contacts for their state agency.